

Appl. No. 10/071,537  
Amdt. dated March 19, 2007  
Reply to Office Action of January 19, 2007

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### REMARKS/ARGUMENTS

By the above amendment, the Applicant has amended Claim 4 editorially to correct the error noted by the examiner. Also applicant has amended Claims 1, 4, 9 and 11-16 to more particularly define the invention in a patentable manner over the cited prior art.

#### **The Claim 4 Objection under § 112 Is Overcome**

Claim 4 was objected to under § 112 because the claim was indefinite through the imprecise use of the phrase "and/or". The claim has been amended to remove the phrase "and/or" and has been made more precise. Accordingly applicant submits that claim 4 does comply with § 112 and therefore requests withdrawal of this objection.

#### **The Rejection Of Claim 1 on Sloane Is Overcome**

The last O.A. rejected independent Claim 1 on the teachings of Sloane (U.S. Patent No. 5,918,211). Applicant requests withdrawal of this rejection for the following reasons:

1. Sloane does not teach a system for delivering shopping incentives individually customized to influence each customer
2. Sloane does not teach a system where incentives are generated by a plurality of independently competing manufacturer controlled dynamic incentive offer engines
3. Sloane does not teach a system that generates incentives that are each further customized to meet the manufacturer's objectives
4. Sloane does not teach a system that has a processing application having stored data relating to determining a customer behavior
5. Sloane does not teach a system where each of the dynamic incentive offer engines have manufacturer controlled logic of a computer implemented process that creates a customized incentive determined by combining the customer behavior data received from said processing application with the manufacturer's internal

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concerns being at least one of marketing budget, internal market share objectives, reduction of overstock inventory, and liquidation of goods approaching expiration

6. Thus Claim 1 is allowable.

Sloane teaches that the incentives to be offered are preloaded from the retailer/manufacturer's computers into a controller that determines if a consumer will receive notification of an incentive being offered. The loading of these incentives happens prior to the shopper scanning a product and is in no way customized to the behavior of each shopper and the concerns of each manufacturer.

While it is taught that the controller in Sloane is in constant communication with a retailer/manufacturer's computer/controller the constant communication taught in Sloane is different because that communication is maintained to allow the retailer/manufacturer to preload new incentives to the controller whenever necessary. It is only after the retailer/manufacturer uploads new incentives to the controller that said incentives are then available to be offered to subsequent shoppers.

According to Sloane the consumer may be identified before beginning shopping so that the computer/controller can utilize the consumer's past purchase history or membership in a frequent shopper program to offer promotional and discount information, however Sloane only offers customers different preexisting incentives from those that are stored on the controller.

Thus, Claim 1 is allowable over Sloane.

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**Dependent Claims 2-5, 7, And 8 Are A Fortiori Patentable Over Sloane**

The last O.A. rejected dependent Claims 2-5, 7 and 8 on the teachings of Sloane (U.S. Patent No. 5,918,211). Original dependent claims 2, 3, 5, 7, 8, and amended claim 4 incorporate all the subject matter of Claim 1 and add additional subject matter, which makes them a fortiori and independently patentable over this reference.

**Dependent Claim 6 Is A Fortiori Patentable Over Sloane And Anttilla**

The last O.A. rejected dependent Claim 6 on the combined teachings of Sloane (U.S. Patent No. 5,918,211) and Anttilla (U.S. Patent No. 6,862,575). The Original dependent claim 6 incorporates all the subject matter of Claim 1 and adds additional subject matter, which makes it a fortiori and independently patentable over these references.

**The Rejection Of Claim 9 on Sloane Is Overcome**

The last O.A. rejected independent Claim 9 on the teachings of Sloane (U.S. Patent No. 5,918,211). Applicant requests reconsideration of this rejection for the following reasons:

1. Sloane does not teach a method for delivering shopping incentives individually customized to influence each customer.
2. Sloane does not teach a method of delivering incentives that are generated by a plurality of independently competing manufacturer controlled dynamic incentive offer engines.
3. Sloane does not teach a method of customizing each incentive to meet the manufacturer's objectives.
4. Sloane does not teach a method providing a processing application having stored data relating to a consumer influence profile for the shopper, where said consumer influence profile is comprised of customer behavior data.
5. Sloane does not teach a method providing a plurality of independently competing manufacturer controlled dynamic incentive offer engines each having

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manufacturer controlled logic of a computer implemented process that creates a customized incentive determined by combining the customer behavior data received from said processing application with the manufacturer's internal concerns including at least one of marketing budget, internal market share objectives, reduction of overstock inventory, and liquidation of goods approaching expiration to determine a dynamically-customized custom shopping incentive.

6. Sloane does not teach a method of communicating said consumer influence profile to said plurality of independently competing manufacturer controlled dynamic incentive offer engines from said processing application.
7. Sloane does not teach a method of determining a dynamically customized shopping incentive for each shopper by each of independently competing manufacturer controlled dynamic incentive offer engines.
8. Thus Claim 9 is allowable.

Sloane teaches a method that delivers incentives that are static in nature and does not teach a method for delivering shopping incentives that are individually customized to influence each customer. The method for delivering incentives in Sloane instructs that incentives are preloaded from the retailer/manufacturer's computers into a controller prior to the shopper scanning a product. These incentives are not customized for each customer.

As the method described by Sloane provides preloaded incentives that are not customized to each shopper, the incentives are also not customized to address the concerns of each manufacturer on an individual customer-by-customer basis.

The method of maintaining communication with a retailer/manufacturer's computer/controller as taught in Sloane is designed to allow each retailer/manufacturer to preload new incentives to the controller whenever necessary. It is only after the

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retailer/manufacturer uploads new incentives to the controller that said incentives are then available to be offered to subsequent shoppers.

According to the method taught by Sloane the consumer may be identified prior to shopping so that the computer/controller can utilize the consumer's past purchase history or membership in a frequent shopper program to offer promotional and discount information however Sloane only offers customers different preexisting incentives from those that are stored on the controller.

Given this information Claim 9 is allowable over Sloane.

**Dependent Claims 10-13, 15, And 16 Are A Fortiori Patentable Over Sloane**

The last O.A. rejected dependent Claims 10-13, 15, and 16 on the teachings of Sloane (U.S. Patent No. 5,918,211). Original dependent claim 10 and amended claims 11-13, 15, and 16 incorporate all the subject matter of Claim 9 and add additional subject matter, which makes them a fortiori and independently patentable over this reference.

**Dependent Claim 14 Is A Fortiori Patentable Over Sloane And Anttilla**

The last O.A. rejected dependent Claim 14 on the combined teachings of Sloane (U.S. Patent No. 5,918,211) and Anttilla (U.S. Patent No. 6,862,575). The Amended dependent claim 14 incorporates all the subject matter of Claim 9 and adds additional subject matter, which makes it a fortiori and independently patentable over these references.

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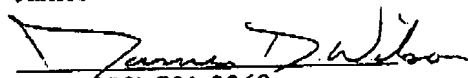
### **Conclusion**

In view of the above it is submitted that the claims are in condition for allowance.  
Reconsideration of the objections is respectfully requested.

### **Conditional Request For Constructive Assistance**

Applicant has amended the claims of this specification so that they are proper, definite, and define a novel system and method, which is also unobvious. If for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,  
James D. Wilson

  
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